Appl. No.: 10/716,842
Docket No.: 351918-914971 (new) (old: 2102402-914971)
Response to Office Action of October 18, 2006

REMARKS/ARGUMENTS

Claims 1-39 are pending. Claims 1, 9, 11 and 13-14 have been amended. Claims 26-36 and 38-39 have been withdrawn from consideration.

1. Abstract

The Abstract has been amended into a single paragraph of less than 150 words. Approval of the amended Abstract is respectfully requested.

2. Rejection of Claims 1-25, 37 Under §101

Claims 1-25 and 37 stand rejected under 35 U.S.C. 101 because the claimed invention allegedly lacked patentable utility.

While the Applicants disagree with this rejection (especially with respect to the dependent claims), claim 1 has been amended to recite that, in a medical system for analyzing a sample, at least one of the first controller and the second controller send or receive signals to or from components of the medical system in response to the moving through the sequence of the first or second level states for controlling or sensing a status of the components. It is submitted that no new matter has been added to this application by this amendment. Specifically, sending control signals from the controllers to system components is disclosed on page 10, line 12 to page 11, line 24. Likewise, controllers receiving sensor signals is disclosed on page 15, line 21 to page 16, line 8.

It is therefore submitted that claim 1, as amended, and claims 2-25 dependent thereon, sufficiently recite limitations relating to a practical application in the technological arts.

With respect to claim 37, this claim recites, among other things, a system with a controller, system components, and a processor for generating a table for controlling the controller and the system components. It is respectfully submitted that a system with a processor that controls a controller and system components in a certain manner indeed recites limitations

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relating to a practical application in the technological art. Thus, the Applicants respectfully traverse this rejection of claim 37.

2. Rejection of Claims 1-25, 37 Under §102(b)

Claims 1-25 and 37 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,812,419 ("Chupp").

As amended, claim 1 recites, among other things, that the first control level has at least one level-1 controller for moving through a sequence of first level states each associated with a unique first state index number, the first control level generating a first level command associated with one of the first level states, and a second control level having a level-2 controller for moving through a sequence of second level states each associated with a unique second state index number in response to the first level command and for sending a status report to the first control level when a level-2 condition that is defined in one of the second level states is fulfilled. In contrast, Chupp discloses a blood cell analyzer having (as identified by the Examiner) a central processing module 500 that controls a data acquisition subsystem 502 and a motion control subsystem 504 (see col. 44, lines 44-50, and Fig. 25). The data acquisition subsystem 502 generates analog voltages required for various parameter settings, such as trigger levels, gating levels, laser output power, and others (col. 45, lines 31-34). There is no apparent disclosure or suggestion (and none identified by the Examiner) that these components move through a sequence of first or second level states, with the states associated with a unique state index number, or that a command associated with one of the states is generated, or that a second controller moves through states in response to the command, or that a status report is sent when a condition of one of the states is fulfilled, as recited in amended claim 1.

The Examiner maintains on pages 4-5 of the Office Action that the data acquisition subsystem 502, the central processing module 500, and the motion control subsystem 504 of Chupp correspond to the claimed first, second, and third control levels, respectively. Yet, the Examiner does not identify, nor is it apparent from the Chupp disclosure, that these controllers

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move through a sequence of first or second level states as claimed. Moreover, as amended, claim 1 recites that each of the first level states are associated with a unique first state index number, and each of the second level states are associated with a unique second state index number. Chupp contains no apparent teach or suggestion of such unique state index numbers.

The Examiner also makes reference to the timing diagrams of Figures 13A-13F, and to the tables in Figs. 63A-63F. Yet, the timing diagrams of Fig. 13A-13F show the various tasks according to time in seconds (see col. 48, lines 63+), not according to movement through a sequence of level states each associated with a unique state index number as claimed. Figs. 63A-F simply illustrate the valves and functions of Fig. 13 (see col. 5, lines 57-58).

Therefore, it is respectfully submitted that claim 1, as amended, is not anticipated by Chupp.

Regarding claims 2-25, these claims depend upon claim 1 and are therefore considered allowable for the reasons set forth above. Moreover, the Examiner did not identify with any particularity how these dependent claims were allegedly anticipated by Chupp. Given the complexity of the Chupp reference, if the Examiner maintains the rejection of the dependent claims, it is respectfully requested that the Examiner identify the particular part relied upon as nearly as practicable, according to 37 CFR §1.104(c)(2) (cited in MPEP §706):

"When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified."

Regarding claim 37, this claim recites, among other things, a controller, system components, and a processor for generating a table for controlling the controller and the system components, where the table comprises: "a first set of columns containing instructions in a first language that is not readable by the controller; and a second set of columns containing instructions in a second language that is readable by the controller, wherein the instructions in the second set of columns are translated versions of the instructions in the first set of columns generated according to a program." There no apparent portion of Chupp (and none identified

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with specificity by the Examiner) that teaches or suggests the processor generated table as recited in claim 37, and specifically one with the first set of columns with non-readable instruction language and a second set of columns with readable language that are translated versions of the first column language.

For the foregoing reasons, it is respectfully submitted that this case is in condition for allowance, and action to that end is respectfully requested.

Respectfully submitted,

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